

**AN ORDINANCE** **09-O-1653**  
**BY COUNCILMAN C.T. MARTIN**  
**AS SUBSTITUTED BY FINANCE EXECUTIVE COMMITTEE**

**AN ORDINANCE TO AMEND ARTICLE X (PROCUREMENT AND REAL ESTATE CODE), DIVISION 2 (CHIEF PROCUREMENT OFFICER), SECTION 2-1139 (USING AGENCY REQUIREMENTS) SUBSECTION (a) OF THE ATLANTA CITY CODE SO AS TO LIMIT THE ROLE OF PERSONS EMPLOYED IN THE EXECUTIVE OFFICE OF THE MAYOR PARTICIPATING IN THE PROCUREMENT PROCESS; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, staff persons employed in the Executive Office of the Mayor are in the unique position of having the imprimatur of executive authority over the operation of City Government at all levels; and

**WHEREAS**, it is important to define the roles that are appropriate for persons employed in the Executive Office of the Mayor participating in the procurement process; and

**WHEREAS**, the role of persons employed in the Executive Office of the Mayor participating in the procurement process should be limited in order to avoid any allegation of impropriety,

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:**

**Section 1:** That Atlanta City Code Article X (Procurement And Real Estate Code), Division 2 (Chief Procurement Officer), Section 2-1139 (Using Agency Requirements) Subsection (a) which currently provides as follows:

*(a) Relationship with using agencies and other city agencies and departments.*  
The chief procurement officer shall maintain a close and cooperative relationship with the using agencies. The chief procurement officer shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement and real estate matters affecting the using agency. Notwithstanding any other provision in this chapter, when in consultation with the using agency with respect to a procurement or real estate matter, the chief procurement officer, in cooperation with the head of the using agency, shall consult and seek technical assistance, specialized knowledge and expertise from appropriate subject matter professionals or persons within the affected using agency and, if the knowledge and expertise required are not available within the using agency, then the chief procurement officer shall consult and seek technical assistance, specialized knowledge and expertise from professionals or persons in other appropriate agencies and departments of the city. Such assistance may

include, among other things, reviewing bids, evaluating or scoring proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with requests for proposals. The chief procurement officer, to the extent practicable, shall use every effort to reach an agreement with the using agency with respect to procurement or real estate matters affecting that agency.

That the foregoing is hereby amended by inserting the following language prior to the last sentence of said subsection:

**Except in such cases where goods, services, supplies, construction services or consultant services are being procured for the Executive Office of the Mayor as a using agency , no person employed in the Executive Office of the Mayor shall serve as a member of a procurement evaluation team or shall participate in aspects of the procurement process related to the selection of an offeror for award of a contract. This prohibition shall include, but shall not be limited to, reviewing bids and proposals, evaluating or scoring bids and proposals, making recommendations concerning bids and proposals and participating during interviews, discussions and negotiations in connection with bids and proposals.**

That, when amended, said subsection (a) shall provide as follows:

*(a) Relationship with using agencies and other city agencies and departments.*

The Chief Procurement Officer shall maintain a close and cooperative relationship with the using agencies. The Chief Procurement Officer shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement and real estate matters affecting the using agency.

Notwithstanding any other provision in this chapter, when in consultation with the using agency with respect to a procurement or real estate matter, the Chief Procurement Officer, in cooperation with the head of the using agency, shall consult and seek technical assistance, specialized knowledge and expertise from appropriate subject matter professionals or persons within the affected using agency and, if the knowledge and expertise required are not available within the using agency, then the Chief Procurement Officer shall consult and seek technical assistance, specialized knowledge and expertise from professionals or persons in other appropriate agencies and departments of the city. Such assistance may include, among other things, reviewing bids, evaluating or scoring proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with requests for proposals. **Except in such cases where goods, services, supplies, construction services or consultant services are being procured for the Executive Office of the Mayor as a using agency, no person employed in the Executive Office of the Mayor shall serve as a member of a procurement evaluation team or shall participate in aspects of the procurement process related to the selection of an offeror for award of a contract. This prohibition shall include, but shall not be limited to, reviewing bids and proposals, evaluating**

**or scoring bids and proposals, making recommendations concerning bids and proposals and participating during interviews, discussions and negotiations in connection with bids and proposals.** The Chief Procurement Officer, to the extent practicable, shall use every effort to reach an agreement with the using agency with respect to procurement or real estate matters affecting that agency.

**Section 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

**AN ORDINANCE TO AMEND SUBSECTION (a) OF SECTION 2-1139 (USING AGENCY REQUIREMENTS) OF CHAPTER 2 (ADMINISTRATION), ARTICLE X (PROCUREMENT AND REAL ESTATE CODE), DIVISION 2 (CHIEF PROCUREMENT OFFICER), OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA SO AS TO PROVIDE THAT NO PERSON EMPLOYED IN THE EXECUTIVE OFFICE OF THE MAYOR SHALL SERVE AS A MEMBER OF A PROCUREMENT EVALUATION TEAM OR SHALL IN ANY WAY PARTICIPATE IN THE PROCUREMENT PROCESS; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, staff persons employed in the Executive Office of the Mayor are in the unique position of possibly exerting undue influence in the procurement bid and proposal evaluation process; and

**WHEREAS**, the procurement bid and proposal evaluation process must be free of any appearance of impropriety and undue influence; and

**WHEREAS**, for this reason, persons employed in the Executive Office of the Mayor should not participate in the procurement bid and proposal evaluation process.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:**

**Section 1:** Subsection (a) of Section 2-1139 (Using agency requirements) of Chapter 2 (Administration), Article X (Procurement and Real Estate Code), Division 2 (Chief Procurement Officer), of the Code of Ordinances of the City of Atlanta, Georgia, which currently provides as follows:

- (a) Relationship with using agencies and other city agencies and departments. The chief procurement officer shall maintain a close and cooperative relationship with the using agencies. The chief procurement officer shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement and real estate matters affecting the using agency. Notwithstanding any other provision in this chapter, when in consultation with the using agency with respect to a procurement or real estate matter, the chief procurement officer, in cooperation with the head of the

using agency, shall consult and seek technical assistance, specialized knowledge and expertise from appropriate subject matter professionals or persons within the affected using agency and, if the knowledge and expertise required are not available within the using agency, then the chief procurement officer shall consult and seek technical assistance, specialized knowledge and expertise from professionals or persons in other appropriate agencies and departments of the city. Such assistance may include, among other things, reviewing bids, evaluating or scoring proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with requests for proposals. The chief procurement officer, to the extent practicable, shall use every effort to reach an agreement with the using agency with respect to procurement or real estate matters affecting that agency.

Is hereby amended by inserting the following language prior to the last sentence of said subsection:

**No person employed in the executive office of the mayor shall serve as a member of a procurement evaluation team or shall in any way participate in the procurement process. This prohibition shall include, but shall not be limited to, reviewing bids and proposals, evaluating or scoring bids and proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with bids and proposals.**

So that when amended, said subsection (a) shall provide as follows:

Relationship with using agencies and other city agencies and departments. The chief procurement officer shall maintain a close and cooperative relationship with the using agencies. The chief procurement officer shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement and real estate matters affecting the using agency. Notwithstanding any other provision in this chapter, when in consultation with the using agency with respect to a procurement or real estate matter, the chief procurement officer, in cooperation with the head of the using agency, shall consult and seek technical assistance, specialized knowledge and expertise from appropriate subject matter professionals or persons within the affected using agency and, if the knowledge and expertise required are not available within the using agency, then the chief procurement officer shall consult and seek technical assistance, specialized knowledge

and expertise from professionals or persons in other appropriate agencies and departments of the city. Such assistance may include, among other things, reviewing bids, evaluating or scoring proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with requests for proposals. **No person employed in the executive office of the mayor shall serve as a member of a procurement evaluation team or shall in any way participate in the procurement process. This prohibition shall include, but shall not be limited to, reviewing bids and proposals, evaluating or scoring bids and proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with bids and proposals.** The chief procurement officer, to the extent practicable, shall use every effort to reach an agreement with the using agency with respect to procurement or real estate matters affecting that agency.

**Section 2:** All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.